

COUNCIL COMMUNICATION

Department: Public Works Ordinance No. _____ First Reading December 14, 2009
Case/Project No.: FY11-10 Resolution No. 09-357
Applicant: Greg Reeder, Public Works Director

SUBJECT/TITLE

Council consideration of a resolution setting a public hearing for 7:00 p.m. on January 11, 2010, for the Lower Bennett Rehab Phase II. Project #FY11-10.

BACKGROUND/DISCUSSION

- Weaver's 3rd Addition and Seldin's 4th & 5th Additions are the residential areas east of Bennett Avenue from Franklin Ave to McPherson. The streets in the area are 40-50 years old and in poor condition. There is inadequate storm sewer in the area.
- Phase I was completed in 2009 on Arnold Ave from Adrian Ave to Mielke Way
- The neighborhood infrastructure will be replaced over several years. Phase II will involve Mielke Way, Arnold Avenue and Adrian Avenue. Improvements include new concrete pavement, storm sewer, and sanitary sewer.
- The project is FY11-10 in the CIP and has a budget of \$1,000,000 in G. O. Bonds
- The project scheduled is:

Set Public Hearing	December 14, 2009
Hold Public Hearing	January 11, 2010
Letting	February 11, 2010
Award	February 22, 2010

RECOMMENDATION

Approval of this resolution.

FY11-10
LOWER BENNETT REHAB PH II



RESOLUTION
NO 09-357

**RESOLUTION DIRECTING THE CLERK TO PUBLISH NOTICE
AND SETTING A PUBLIC HEARING ON THE
PLANS, SPECIFICATIONS, FORM OF CONTRACT
AND COST ESTIMATE FOR THE
LOWER BENNETT REHAB PHASE II
PROJECT #FY11-10.**

WHEREAS, the City wishes to make improvements known as the
Lower Bennett Rehab Phase II, within the City,
as therein described; and

WHEREAS, the plans, specifications, form of contract and cost
estimate are on file in the office of the city clerk.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City Clerk is hereby ordered to set a public hearing on the plans, specifications, form of contract and cost estimate for the Lower Bennett Rehab Phase II setting January 11, 2010, at 7:00 p.m. as the date and time of said hearing.

ADOPTED
AND
APPROVED

December 14, 2009

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk

COUNCIL COMMUNICATION

Department: <u>Public Works</u>	Ordinance No. _____	First Reading <u>December 14, 2009</u>
Case/Project No.: <u>FY10-11B</u>	Resolution No. <u>09-358</u>	
Applicant: <u>Greg Reeder, Public Works Director</u>		

SUBJECT/TITLE

Council consideration of a resolution setting a public hearing for 7:00 p.m. on January 11, 2010, for the Broadway Streetscape-Phase II, also called (Downtown Streetscape-Phase VIII-Broadway). Project #FY10-11B.

BACKGROUND/DISCUSSION

- The city, in partnership with Iowa West Foundation has implemented a program to rebuild the downtown public infrastructure and incorporate a streetscape theme. Seven phases have been completed to date. The first phase was in 1998 and the seventh was in 2008.
- To date the total cost of the program is \$14,672,000.00
- Proposed is Phase VIII overall and Phase II for the Broadway section. Phase II is Broadway from 2nd Street to 1st Street.
- Improvements in Phase VIII include street, storm sewer, and sanitary sewer replacement. Streetscape amenities include landscaping, irrigation, walls, entry columns, interpretive elements, benches, street lights, decorative concrete and brick.
- Due to PCDC building demolition on the south side of Broadway and extensive utility relocation work in the 1st Street & Broadway intersection, the project will be constructed in two phases. Phase A, FY10-11A, was reconstructed on the north side of Broadway from 2nd Street to 1st Street intersection. This work was completed in 2009. The second phase FY10-11B will reconstruct the street between 1st and 2nd Street, and the south sidewalk. Phase B will be bid in the winter of 2009 and will begin in the spring of 2010.
- This is project FY10-11 in the CIP and total cost of the project is estimated at \$3,100,000. The project budget is \$1,500,000 GO Bonds, \$1,300,000 Iowa West Foundation Grant, and \$300,000 Council Bluffs Water Works. Phase B, FY10-11B – 2010 construction and engineering is estimated at \$1,100,000.
- This project includes a \$10,000 incentive if the work is completed by July 2, 2010. After that date liquidated damages will be assessed at \$1,500 for each calendar day until the project is completed.
- The sidewalk work in front of the old O'Malley's building will not be completed until the remodel of the building is done. The contractor has until August, 30th to complete this sidewalk..
- Project Schedule is: Setting the Public Hearing, December 14, 2009; Hold Public Hearing, January 11, 2009; Construction Letting, February 8, 2010 and Construction Award, February 22, 2010.

RECOMMENDATION

Approval of this resolution.

RESOLUTION
NO 09-358

**RESOLUTION DIRECTING THE CLERK TO PUBLISH NOTICE
AND SETTING A PUBLIC HEARING ON THE
PLANS, SPECIFICATIONS, FORM OF CONTRACT
AND COST ESTIMATE FOR THE
BROADWAY STREETScape-PHASE II,
ALSO CALLED (DOWNTOWN STREETScape-PHASE VIII-BROADWAY)
FY10-11A**

WHEREAS, the City wishes to make improvements known as the Broadway Streetscape-Phase II, also called (Downtown Streetscape-Phase VIII-Broadway), within the City, as therein described; and

WHEREAS, the plans, specifications, form of contract and cost estimate are on file in the office of the city clerk.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City Clerk is hereby ordered to set a public hearing on the plans, specifications, form of contract and cost estimate for the Broadway Streetscape-Phase II, also called (Downtown Streetscape-Phase VIII-Broadway) setting January 11, 2010, at 7:00 p.m. as the date and time of said hearing.

ADOPTED
AND
APPROVED

December 14, 2009

Thomas P. Hanafan, Mayor

ATTEST:

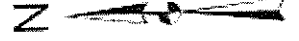
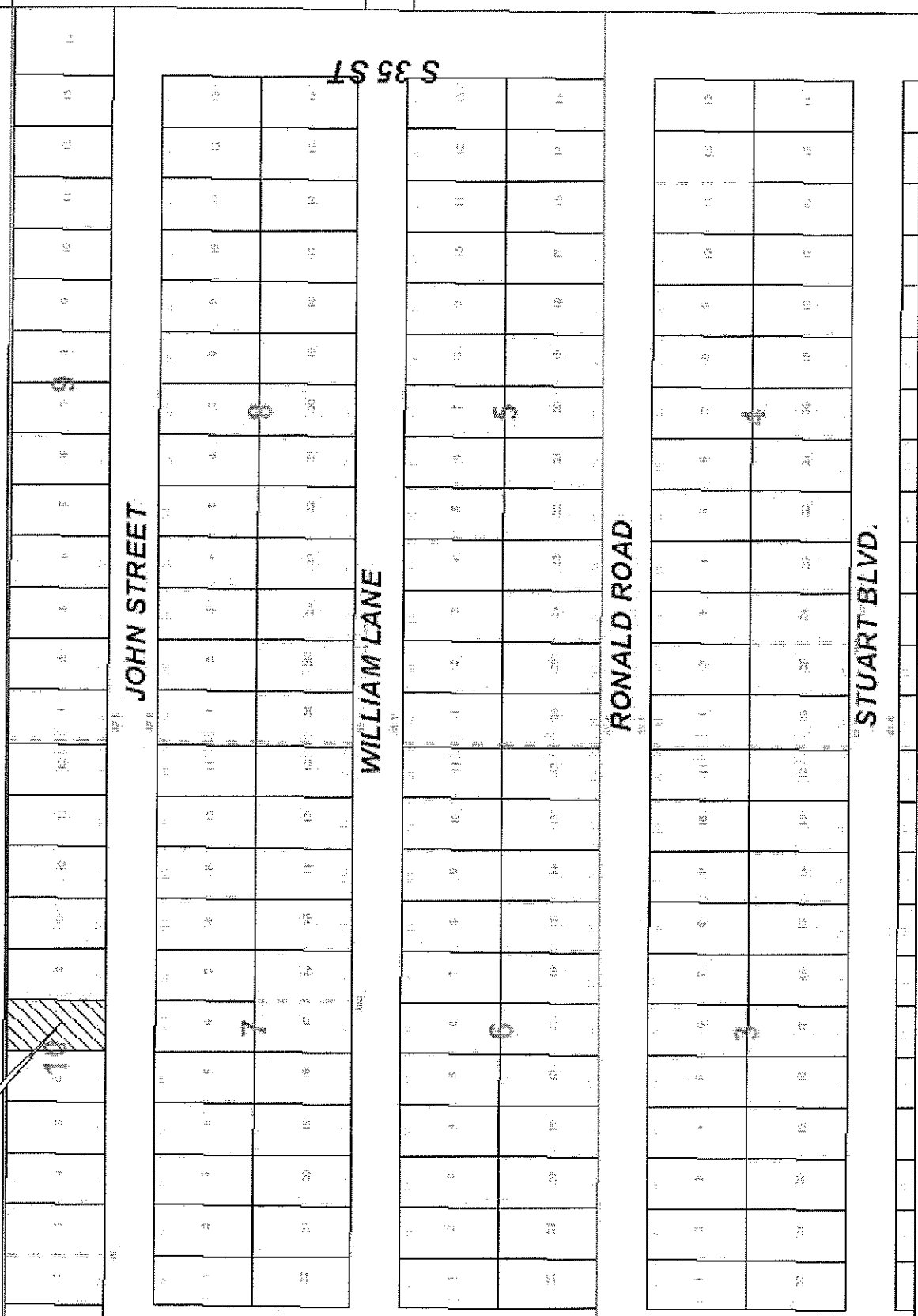
Marcia L. Worden, City Clerk

Council Communication

Department: Community Development Offer To Buy City Property Applicant: Frederick T. Rose	Resolution of Intent No. <u>09-359</u> Resolution to Dispose No. _____	Set Public Hearing: 12/14/09 Public Hearing: 01/11/10
Subject/Title		
Request of Frederick T. Rose, 3607 William Lane, Council Bluffs, IA 51501 to purchase property formerly known as 3610 John Street, legally described as Lot 7, Block 10, Moore's Addition (aka Malmore Acres).		
Background/Discussion		
<p>Frederick Rose has submitted an Offer to Buy for Lot 7, Block 10, Moore's Addition (aka Malmore Acres). This City owned property is zoned R-1M/Single-Family Manufactured Housing District and measures 50' x 100' for a total of 5,000 square feet. A manufactured home was previously located on site, but the property is now vacant. The City acquired this parcel in September, 2008 through a 657A process.</p> <p>The applicant has offered the price of \$7,600 which amounts to \$1.52 per square foot. Staff has other vacant lots within Malmore Acres and finds that the Pottawattamie County Assessor has established land values ranging from \$7,560 to \$9,514. Although the Applicant's offer falls within this range, the offer is below the mid point of \$8,537.</p> <p>No adverse comments have been received from any City department or utility.</p>		
Recommendation		
The Community Development Department recommends disposal of part of Lot 7, Block 10, Moore's Addition to Frederick Rose, III for \$8,537.		
Attachment: Location map. Prepared By: Rebecca Sall, Planning Technician, Community Development Department		

OFFER TO BUY - FREDERICK ROSE

SUBJECT
PROPERTY



Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO. 09-359

A RESOLUTION OF INTENT TO DISPOSE OF CITY PROPERTY DESCRIBED AS LOT 7, BLOCK 10, MOORE'S ADDITION.

WHEREAS, the City has received, from Frederick T. Rose, an offer to buy Lot 7, Block 10, Moore's Addition, formerly known as 3610 John Street, and

WHEREAS, the Mayor and city staff recommends disposal of the above-referenced property under the terms and conditions set forth in the offer to buy.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City does hereby express its intent to dispose of Lot 7, Block 10, Moore's Addition, formerly known as 3610 John Street,; and

BE IT FURTHER RESOLVED

That a public hearing be scheduled for January 11, 2010.

ADOPTED
AND
APPROVED:

December 14, 2009

Thomas P. Hanafan Mayor

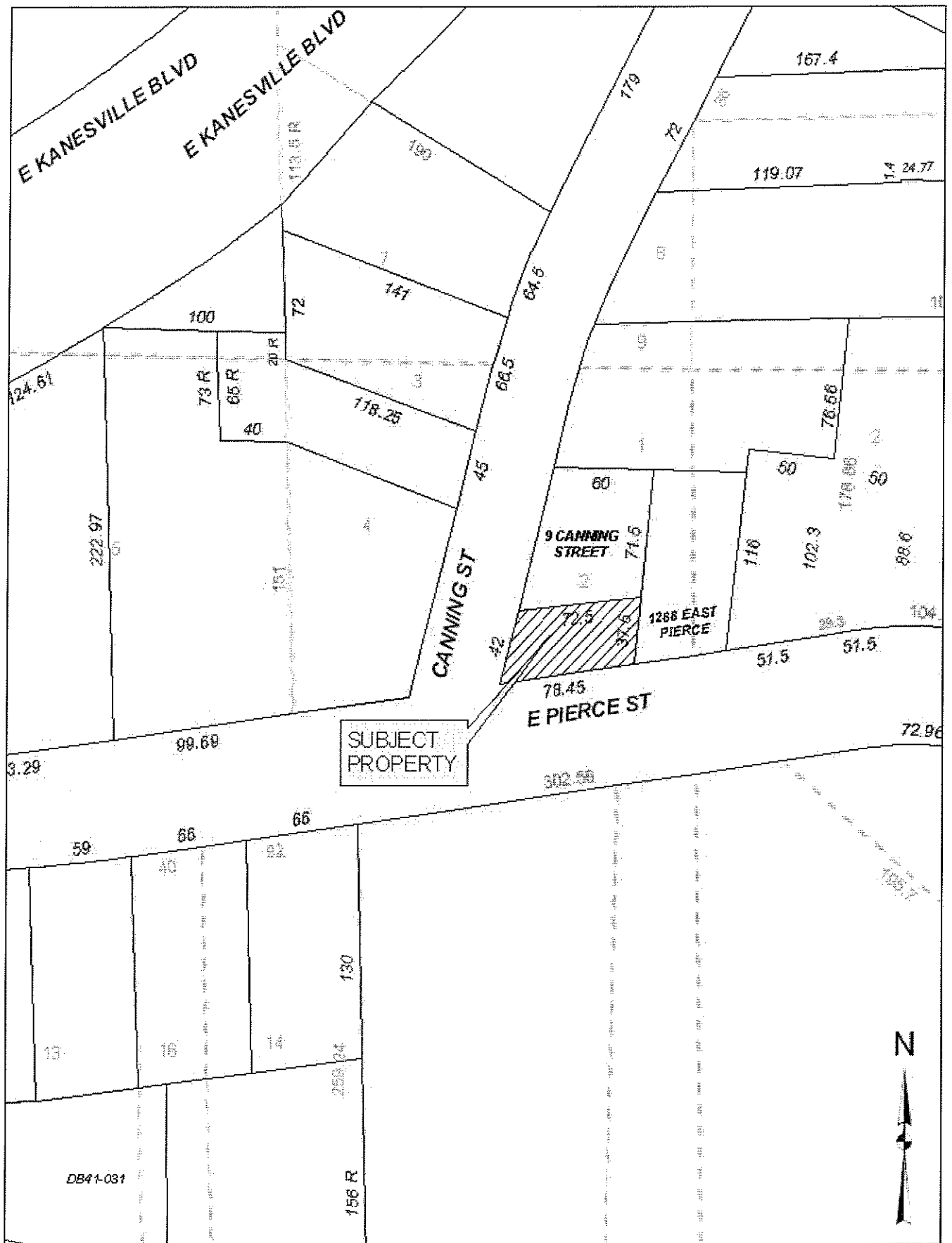
ATTEST:

Marcia L. Worden City Clerk

Council Communication

Department: Community Development Offer To Buy City Property Applicant: Erwin A. Atherton, III	Resolution of Intent No. <u>09-360</u> Resolution to Dispose No. _____	Set Public Hearing: 12/14/09 Public Hearing: 01/11/10
Subject/Title		
<p>Request of Erwin A. Atherton, III, 7323 North 152nd Street, Bennington, NE 68007 to purchase property formerly known as 5 Canning Street, described as part of Lot 2, Auditor's Subdivision of the SW1/4 NE1/4 and part of Lot 14, Auditor's Subdivision of the SE1/4 NE1/4, all in Section 30-75-43.</p>		
Background/Discussion		
<p>Erwin Atherton, III is offering to purchase a parcel of land lying north of East Pierce and east of Canning Street formerly known as 5 Canning Street. This City owned property, zoned R-3/Multi-Family Residential District, measures approximately 40' x 75' and is now vacant. Mr. Atherton would like to combine this parcel with his property abutting on the north at 9 Canning Street. The City acquired the parcel in December, 2007 via Quit Claim Deed from the previous owner.</p> <p>The applicant has offered the price of \$300.00 (\$0.10 per square foot). Because the lot is on a corner and averages only 40 feet wide, it is a nonconforming lot of record and considered unbuildable. The difficulty in developing the property combined with ongoing maintenance, staff considers the amount offered to be reasonable. As such, staff believes conveying the property to Mr. Atherton is the only feasible option.</p>		
Recommendation		
<p>The Community Development Department recommends disposal of part of Lot 2, Auditor's Subdivision of the SW1/4 NE1/4 and part of Lot 14, Auditor's Subdivision of the SE1/4 NE1/4, all in Section 30-75-43, to Erwin A. Atherton, III for the amount offered.</p>		
<p>Attachment: Location map. Prepared By: Rebecca Sall, Planning Technician, Community Development Department</p>		

OFFER TO BUY - ATHERTON



Prepared by: Community Development Dept., Co. Bluffs, IA 51503 – Phone: 328-4629
Return to: City Clerk, 209 Pearl Street, Co. Bluffs, IA 51503 – Phone: 328-4616

RESOLUTION NO. 09-360

A RESOLUTION OF INTENT TO DISPOSE OF CITY PROPERTY FORMERLY KNOWN AS 5 CANNING STREET LYING NORTH OF EAST PIERCE STREET AND EAST OF CANNING STREET.

WHEREAS, the City has received, from Erwin A. Atherton, III, an offer to buy property formerly known as 5 Canning Street, described as part of Lot 2, Auditor's Subdivision of the SW1/4 NE1/4 and part of Lot 14, Auditor's Subdivision of the SE1/4 NE1/4, all in Section 30-75-43, and

WHEREAS, the Mayor and city staff recommends disposal of the above-referenced property under the terms and conditions set forth in the offer to buy.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the City does hereby express its intent to dispose of City property formerly known as 5 Canning Street, described as part of Lot 2, Auditor's Subdivision of the SW1/4 NE1/4 and part of Lot 14, Auditor's Subdivision of the SE1/4 NE1/4, all in Section 30-75-43, more fully described as: Commencing at the intersection of Canning Street and McPherson Avenue/East Pierce Street, thence North 48', East 75.5', South 37.5', West 78.45' to the Point of Beginning; and

BE IT FURTHER RESOLVED

That a public hearing be scheduled for January 11, 2010.

ADOPTED
AND
APPROVED:

December 14, 2009

Thomas P. Hanafan Mayor

ATTEST: _____
Marcia L. Worden City Clerk

Council Communication

Department: Community Development Case No. N/A Applicant: Community Development	Resolution No. <u>09-337</u>	Public hearing: December 14, 2009
Subject/Title Acquisition of a parcel owned by Robert and Jocelyn Byers along Valley View Drive for the expansion of park land and recreation uses.		
Background/Discussion <p>The City must complete a Land and Water Conservation Fund (LWCF) conversion in order to complete the development of the Playland Park parcel. In summary the conversion process requires the City to acquire and develop a like appraised value of land for park/recreation uses. Three properties adjacent to Valley View Park have been identified to satisfy the LWCF requirement.</p> <p>The Community Development Department and its representatives have initiated discussion with the owners of these three parcels. Of the three properties, two have indicated a willingness to sell voluntarily. Although staff will continue to acquire the remaining (Byers) parcel on a voluntary basis, condemnation may be required. The Byers property was appraised in February 2009 by Mitchell & Associates, Inc. and determined to have a value \$165,000. Legal council representing the City made an offer to the owners for that amount. Mr. Byers contacted the City's representative and verbally provided a counter offer substantially more than the appraised value. Subsequently, Mr. Byers has retained local legal counsel and is having a second appraisal completed. Staff is now recommending that the City proceed with condemnation proceedings. State law sets specific procedures to be followed on the condemnation of agricultural properties. These include a 30-day written, mailed notice along with publication. The property to be acquired includes:</p> <p><u>Robert and Jocelyn Byers:</u> part of Lots 1, 2 and 3 SW1/4 NE1/4, Part of Lot 1 in the SW1/4 NW1/4 and Part of Lots 2 and 5 in the NW1/4 NE1/4 all in Section 32, Township 75, Range 43, lying Northwest of Mosquito Creek, Council Bluffs, Pottawattamie County, Iowa.</p>		
Recommendation The Community Development Department recommends initiating the process to acquire the property by eminent domain, starting the condemnation process according to Chapter 6B of the Iowa Code.		
Attachment: Location Map		
Prepared by: Rose E. Brown, Urban Planner Approved by Donald D. Gross, Director		

PREPARED BY: Community Development Department, 209 Pearl Street, Council Bluffs, IA 51503
RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 09-337

A RESOLUTION TO INITIATE CONDEMNATION PROCEEDINGS TO ACQUIRE PROPERTY GENERALLY DESCRIBED AS PART OF LOTS 1, 2, AND 3 IN THE SW/14 NE1/4, PART OF LOT 1 IN THE SE1/4 NW1/4 AND PART OF LOTS 2 AND 5 IN THE NW1/4 NE1/4 ALL IN SECTION 32, TOWNSHIP 75, RANGE 43, LYING NORTHWEST OF MOSQUITO CREEK, COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, Public hearing has been held pursuant to Chapter 6B of the Iowa Code regarding the acquisition of certain property as described in the notice of public hearing, the use of condemnation to acquire the property if negotiations for a voluntary purchase fail is authorized; and

WHEREAS, Robert and Jocelyn Byers are the owners of certain property within the City of Council Bluffs that is generally described as part of Lots 1, 2 and 3 SW1/4 NE1/4, Part of Lot 1 in the SW1/4 NW1/4 and Part of Lots 2 and 5 in the NW1/4 NE1/4 all in Section 32, Township 75, Range 43, lying Northwest of Mosquito Creek, Council Bluffs, Pottawattamie County, Iowa; and

WHEREAS, the City has identified agricultural property, the acquisition of which is necessary for purposes of establishing expanding park land and recreational uses in the eastern part of the City; and

WHEREAS, it is in the best interest of the City to acquire said property.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That condemnation proceedings be initiated against Robert and Jocelyn Byers for the properties described herein; and

ADOPTED
AND
APPROVED December 14, 2009

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk

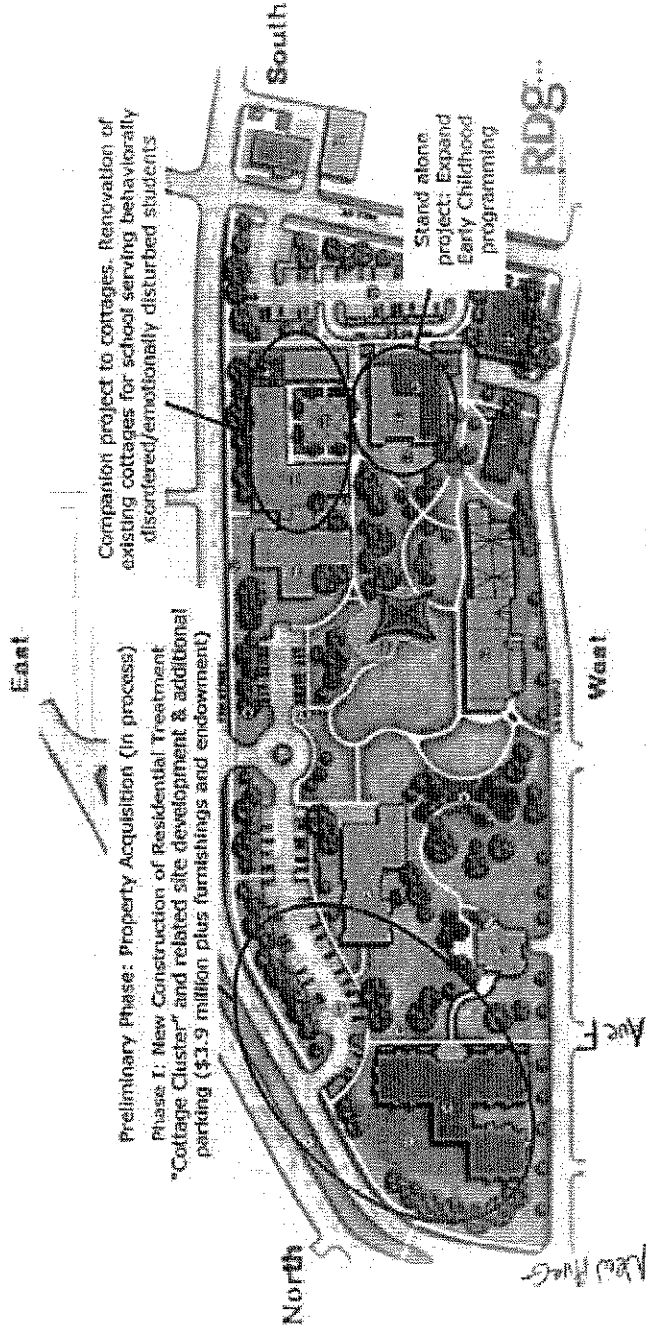
Council Communication

Department: Community Development Case #SAV-09-007 Applicant: CHA Properties, LLC & The Christian Home Association/ Children's Square USA	Resolution of Intent No. <u>09-335</u> Resolution to Dispose No. <u>09-361</u>	City Council: 11-23-09 Planning Commission: <u>11/10/09</u> Set Public Hearing: <u>11/23/09</u> Public Hearing: <u>12/14/09</u>
Subject/Title Request of CHA Properties, LLC & The Christian Home Association/Children's Square USA, North 6 th - North 7 th Streets and Avenue E, PO Box 8-C, Council Bluffs, IA 51502, represented by Joseph D. Thornton, Smith Peterson Law Firm, 35 Main Place, Suite 300, PO Box 249, Council Bluffs, IA 51502-0249, to vacate Avenue F right-of-way lying between North 6 th and Curtis Streets and also to vacate the east/west alley between Avenue F and Avenue G, from North 6 th to Curtis Street in Block 3, Mill Addition.		
Background The Christian Home/Children's Square is requesting vacation of the above mentioned rights-of-way to allow for the expansion of their existing facilities, additional parking and green space. Attached Exhibit 'A' <i>Campus Expansion and Program Development Initiatives</i> illustrates the layout of Phase I – Construction of Residential Treatment Facilities which incorporates the vacated right-of-way. The <i>Project Need and Description</i> is also explained. Public Works will need an easement for an existing storm sewer located in Avenue F. The existing sanitary sewer will become private. Water Works and Black Hills Energy both have facilities within Avenue F right-of-way, which will also require an easement. MidAmerican Energy and Qwest Communications have facilities within in the alley.		
Comments CHA Properties/Christian Home Association have completed the acquisition of all properties abutting the subject rights-of-way. Their plans call for the demolition of these properties, which will be good visual enhancement of the roadway improvements the City has recently made. Approving their request for vacation will allow for the expansion and improvement of their existing facility.		
Recommendation The Community Development Department recommends vacation of Avenue F right-of-way lying between North 6 th - North 7 th and Curtis Streets and also vacation of the east/west alley between Avenue F and Avenue G, from North 6 th – North 7 th to Curtis Street in Block 3, Mill Addition, subject to retention of utility easements. Public Hearing Carol Wood and Joseph Thornton, representing the applicant appeared before the Planning Commission in favor of the request. No one appeared in opposition. Planning Commission Recommendation The Planning Commission recommends vacation of Avenue F right-of-way lying between North 6 th and Curtis Streets and also vacation of the east/west alley between Avenue F and Avenue G, from North 6 th Street to Curtis Street in Block 3, Mill Addition, subject to retention of utility easements. VOTE: AYE 10 NAY 0 ABSTAIN 0 ABSENT 1 Motion: Carried		
Attachments: Exhibit 'A' and map showing requested right-of-way vacation Prepared By: Rebecca Sall, Planning Technician, Community Development Department		

Campus Expansion and Program Development Initiatives

March 30, 2009

FY2010 Request \$1,500,000 for Construction of Residential Treatment Facilities



Overall Costs: \$14.2 million plus furnishings and endowment

- Construction of psychiatric residential treatment facilities
- Renovation of existing facilities for special education programming
- Expansion of facilities for early childhood care and education
- Restoration of two historical buildings for other uses
- Site Projects such as parking, lighting, storage structures, and landscaping

Building Vision, Courage & Will

Children's Square U.S.A. FY2010 Request
Campus Expansion and Program Development Initiatives
Phase I—Construction of Residential Treatment Facilities

Organization:

Christian Home Association -
Children's Square U.S.A.
North 6th Street & Avenue E
P.O. Box 8-C
Council Bluffs, IA 51502-3008
(712) 322-3700
(712) 325-0913 (fax)
www.childrenssquare.org

Organization Contacts:

Carol D. Wood *President & CEO*
cwood@childrenssquare.org
(712) 322-3700 ext. 231
(712) 326-5864 (cell)

Becky Snedeker *Special Projects Liaison*
bsnedeker@childrenssquare.org
(712) 322-3700 ext. 224
(402) 250-6214 (cell)

FY10 Request

\$1,500,000 through HHS is requested to assist in the construction of psychiatric residential treatment facilities serving seriously emotionally disturbed children in Iowa. Project costs are estimated at \$4.6 million excluding furnishings and endowment.

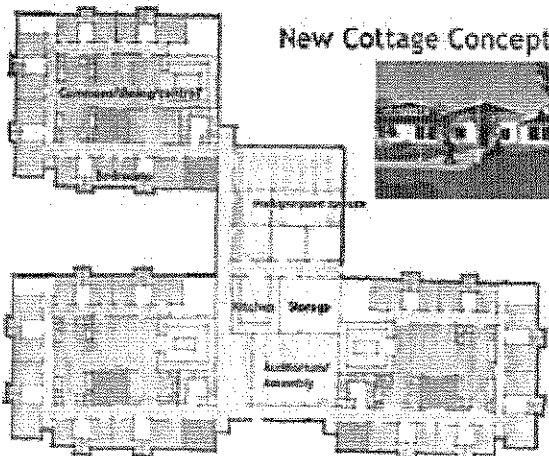
Project Need and Description

Construction of Residential Treatment Facilities is Phase I in Children's Square U.S.A.'s overall Campus Expansion and Program Development Initiatives. New facilities are needed to provide the therapeutic environment necessary for the children and adolescents being served. There is a need for more single bedrooms and single person restrooms as opposed to the current dormitory style living. The need for increased site supervision is also necessary for safety reasons. In addition, there is a significant need for additional programming space that is multipurpose as well as family friendly. This shared space is accessible by all three individual cottages. Incorporated into it is an assembly area that will be used as a storm/safety shelter when necessary.

**"Children's
Square really
made a difference
for my son. He is
a different boy
now from when he
came in. He is ac-
tually happy. If it
wasn't for you
guys, he might not
still be alive."**

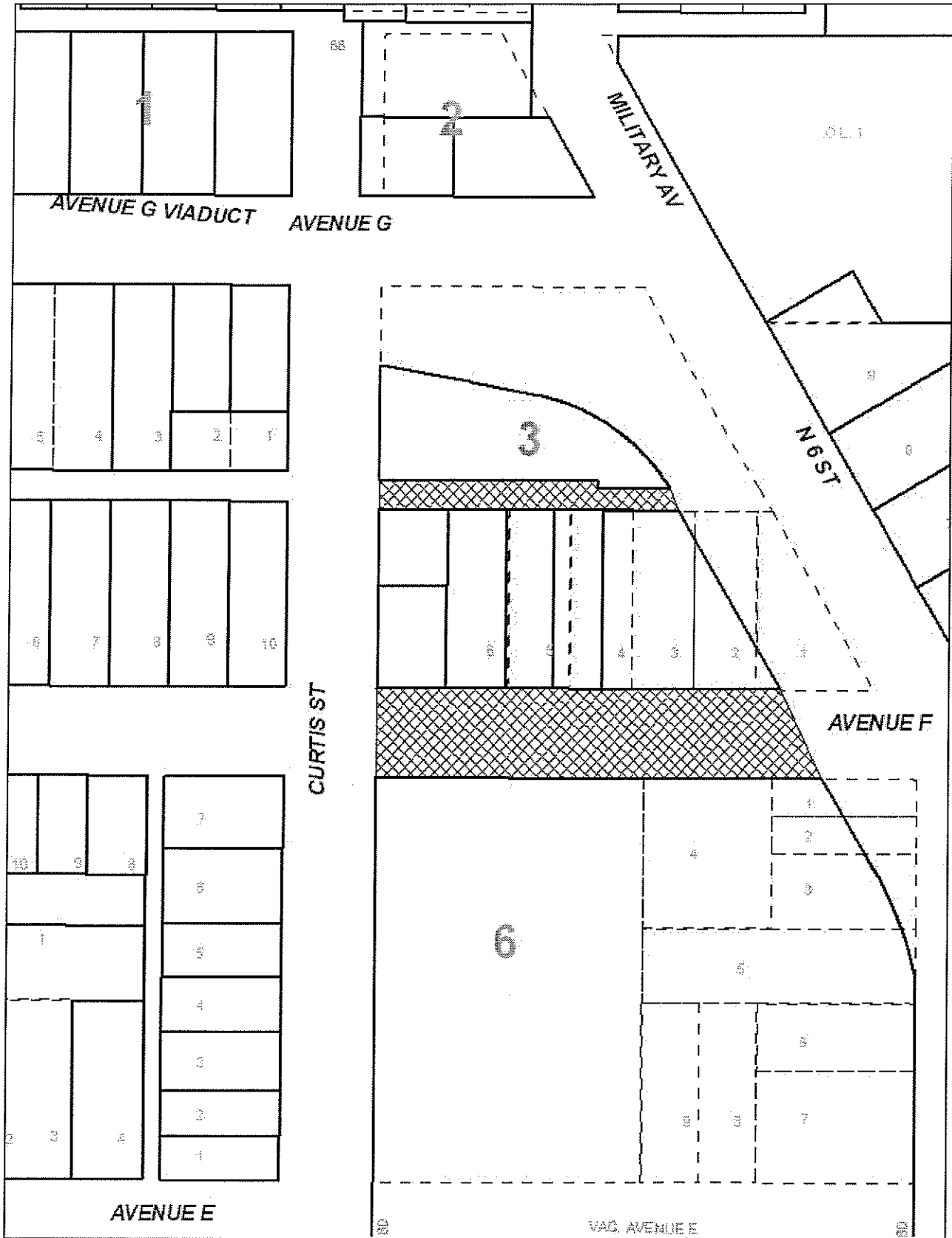
*-Mother of
Residential
student*

Children's Square U.S.A.'s Residential Treatment Program is licensed as a Psychiatric Medical Institution for Children and has a Certificate of Need for 42 beds. An average of 100 children and adolescents are treated each year. These 8 – 18 year olds are a small fraction of the 6 – 11% of Iowa's children that experience significant emotional and mental health disorders. With early identification and an array of appropriate interventions and treatment services, including the Psychiatric Residential Treatment program offered through Children's Square U.S.A., children with emotional, behavioral and mental health disorders and their families can get the help they need to go on to live productive lives.



New Cottage Concept





 REQUESTED VACATION

CASE #SAV-09-007

Board of Directors
 M. Merrill Johnson, Chair
 Tom Schierbrock, Chair Elect
 Gary Fischer, Secretary
 Les Baumbach, Treasurer
 Paul J. Bass, Past Chair
 Molly Bucy
 Dave Erickson
 Mary L. Fuhrman
 Patricia M. Gaston
 Stanley Grote
 Boyd Littrell
 Diane McGrain
 Barb Morrison
 Janet Reiners
 Carol Russell
 Phil Taylor
 Mike Thompson



BUILDING VISION, COURAGE AND WILL

Christian Home Association —
 Children's Square U.S.A.
 North 6th & Avenue E
 P.O. Box 8-C
 Council Bluffs, IA 51502-3008
www.childrensquare.org
 (712) 322-3700
 Fax (712) 325-0913

November 24, 2009

The Honorable Tom Hanafan, Mayor
 Council Bluffs City Council
 209 Pearl Street
 Council Bluffs, IA 51503

Trustee Emeritus
 Richard W. Peterson, J.D.

President & CEO
 Carol D. Wood, ACSW, LISW

Dear Mayor Hanafan and Council Bluffs City Council Members:

We currently have an Application to Vacate a street and alley before the Planning Commission and the City Council. The street and alley are just located north of our campus. As part of a pending expansion project we have acquired the property that is located between the alley and street. Our expansion project is consistent with the City's effort to continue to beautify and redevelop the Ave. G viaduct corridor.

The Planning Commission has recommended the approval of the vacation request, with the City maintaining an easement over the entire area. Based on the retained easement and the nature of our project, we would respectfully request that the City consider approving the vacation request and not require Children's Square to pay any compensation for the vacated property. I am sure that the City will be pleased with our project and the benefits it will provide to the children that we serve.

If you have any questions or would like any more information, please feel free to call me. Thank you for your consideration.

Sincerely,

Carol D. Wood
 President & CEO

ACCREDITED



COUNCIL ON ACCREDITATION
 OF SERVICES FOR FAMILIES
 AND THEIR CHILDREN, INC.

Member Agency



RESOLUTION NO 09-361

A RESOLUTION TO VACATE AND TO DISPOSE OF AVENUE F RIGHT-OF-WAY LYING BETWEEN NORTH 7TH AND CURTIS STREETS ALONG WITH THE EAST/WEST ALLEY IN BLOCK 3, MILL ADDITION, CITY OF COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA.

WHEREAS, following public hearing and having given careful study to the proposal, the City Council determines that city-owned right-of-way described as follows: Avenue F right-of-way lying west of the 2009 relocated Westerly right-of-way line of North 7th Street and east of the East right-of-way line of Curtis Street and also the east/west alley in Block 3, Mill Addition between Avenue F and Avenue G lying west of the 2009 relocated Westerly right-of-way line of North 7th Street and east of the East right-of-way line of Curtis Street, City of Council Bluffs, Pottawattamie County, Iowa, is of no benefit to the public and should be vacated; and

WHEREAS, pursuant to Iowa Code Section 354.23, the City Council declares its intent to dispose of this City right-of-way by conveying and quitclaiming all of its right, title, and interest in it to the abutting property owner(s); and

WHEREAS, this conveyance is subject to the reservation of a permanent and perpetual utilities easement of way in favor of the City of Council Bluffs, for the maintenance of any and all utilities equipment presently in place, and for such reconstruction, re-emplacement and repair thereof which said City and its licensees and/or franchise grantees may in the future deem necessary and proper, and for the removal of any improvements emplaced thereon by the grantees, or their successors or assigns, necessitated by the reconstruction, re-emplacement, or repair of such utilities, such removal to be at the sole expense of grantees or their successors or assigns and without cost to the City, its licensees and/or franchise grantees, and without obligation to repair or replace such improvements, and subject to any and all other easements and right-of-way of record and those not of record.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the above-described city right-of-way is hereby vacated and conveyed as follows:

Christian Home Association: All of the vacated east/west alley abutting the North 1/2 of Block 3, Mill Addition lying west of the 2009 Westerly right-of-way line of North 7th Street and east of the East right-of-way line of Curtis Street.

Christian Home Association: All of vacated Avenue F right-of-way abutting the West 1/2 of Block 6, Mill Addition and Auditor's Subdivision of the East 1/2 of Block 6, Mill Addition lying west of the 2009 Westerly right-of-way line of North 7th Street and east of the East right-of-way line of Curtis Street for the sum of \$7,100.00.

BE IT FURTHER RESOLVED

That the Mayor and the City Clerk be and are hereby authorized, empowered and directed to execute a City deed conveying the City's interest in the above-described street right-of-way, and;

BE IT FURTHER RESOLVED

That the City Clerk is directed to deliver this resolution and attached documents to the County Recorder according to Iowa Code 354.23.

ADOPTED

AND

APPROVED:

December 14, 2009

Thomas P. Hanafan, Mayor

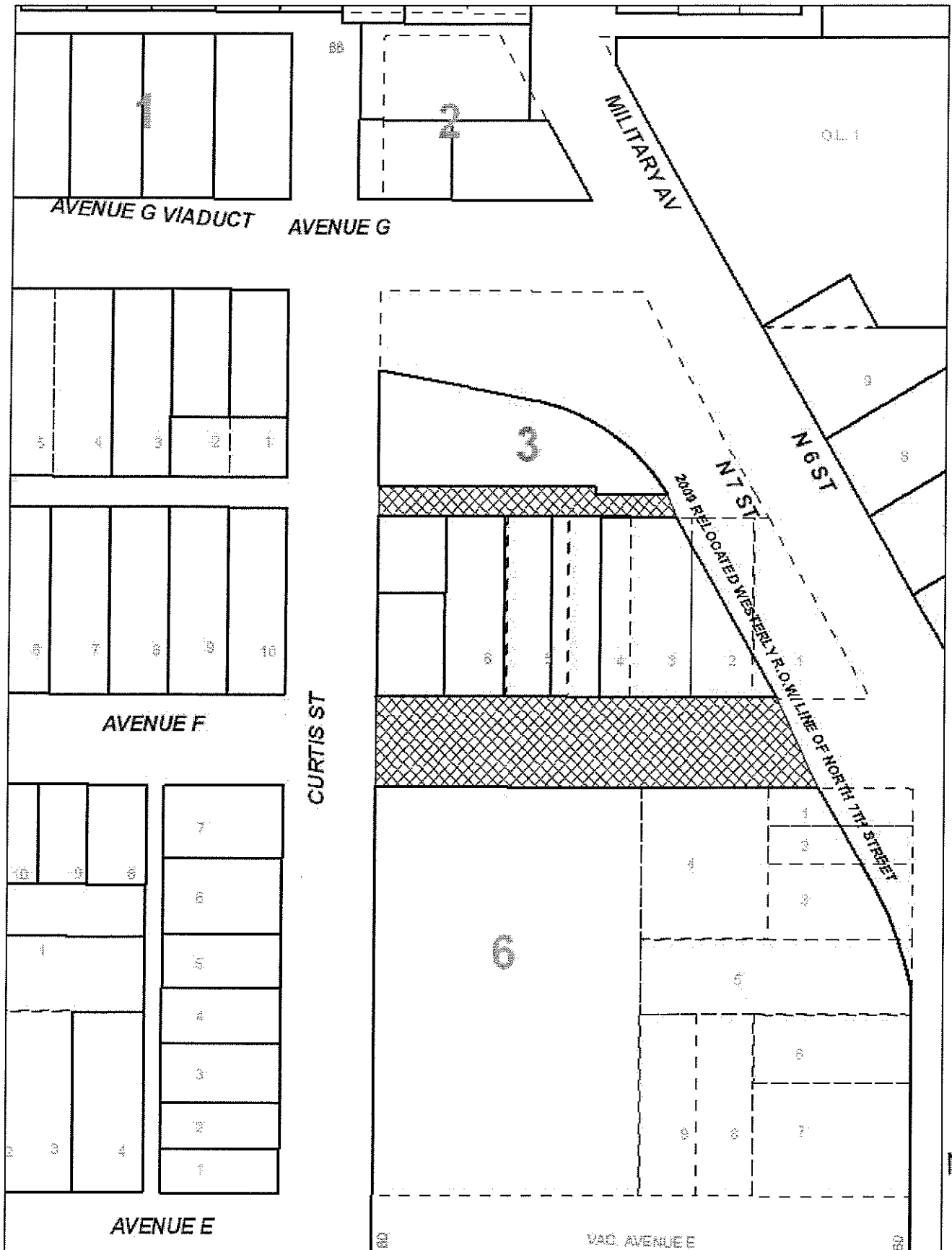
ATTEST:

Marcia L. Worden, City Clerk

STATE OF IOWA)
COUNTY OF)ss
POTTAWATTAMIE)

On this _____ day of _____, before me the undersigned, a Notary Public in and for said County and said State, personally appeared Thomas P. Hanafan and Marcia L. Worden, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively, of the said City of Council Bluffs, Iowa, a Municipal Corporation, that the seal affixed hereto is the seal of said Municipal Corporation; that said instrument was signed and sealed on behalf of the said City of Council Bluffs, Iowa, by authority of its City Council; and that said Thomas P. Hanafan and said Marcia L. Worden, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said City, by it and by them voluntarily executed.

Notary Public in and for said State



REQUESTED VACATION

CASE #SAV-09-007

COUNCIL COMMUNICATION

Department: Public Works Ordinance No. _____ First Reading December 14, 2009
Case/Project No.: FY10-05E-2 Resolution No. 09-362
Applicant: Greg Reeder, Public Works Director

SUBJECT/TITLE

After the Public Hearing council consideration of a resolution approving the plans and specifications and authorizing the City Clerk to advertise for bids setting January 28, 2010, at 10:00 a.m. as the date and time for the bid opening for Wastewater Disinfection. Project #FY10-05E-2.

BACKGROUND/DISCUSSION

- The City of Council Bluffs Water Pollution Control Plant (WPCP) was placed into operation in 1973. Over the past 3 decades several additions and upgrades have been undertaken to maintain treatment process, upgrade the system and replace equipment that has reached its service life.
- Disinfection of final effluent was last performed at the WPCP in 1998 based on the then current federal regulations.
- The Iowa Department of Natural Resources (DNR), in accordance with new federal regulations, mandated in a letter dated March 9, 2007, that the City of Council Bluffs WPCP provide for disinfection of its final effluent in accordance with the new federal regulations on or before March 15, 2011.
- The following schedule was developed jointly by the City of Council Bluffs and the IDNR regarding the mandate:

Monitoring of effluent through December 31, 2008, final effluent disinfection

Preliminary design submittal for disinfection system on or before April 15, 2009

Final design submittal for disinfection system on or before September 30, 2009

Bid contract documents for disinfection system on or before January 1, 2010

Progress report on construction on or before September 1, 2010

Substantial completion of disinfection system on or before December 31, 2010

Effluent to meet new regulations for disinfection March 15, 2011

- Since the disinfection project is mandated by federal and state regulations failure to comply could result in noncompliance and fine for the City of Council Bluffs.
- After analysis, ultraviolet light was selected as the means of disinfection.
- Equipment for the UV disinfection was procured by the City earlier in Project FY10-05E-1 which was awarded September 14, 2009, to Azonia.
- Project FY10-05E-2 is the construction of facilities at the WPCP and installation of procured equipment and has the following schedule:

Set Public Hearing	November 23, 2009
Hold Public Hearing	December 14, 2009
Letting	January 28, 2010
Award	February 08, 2010

- The disinfection project will be project FY10-05E in the CIP. Project cost is \$4.0 million and is funded by a State Revolving Fund (SRF) loan through the Iowa Finance Authority (IFA).

RECOMMENDATION

Approval of this resolution.

RESOLUTION
NO 09-362

**RESOLUTION APPROVING THE PLANS, SPECIFICATION,
FORM OF CONTRACT AND COST ESTIMATE FOR THE
WASTEWATER DISINFECTION
FY10-05E-2**

WHEREAS, the plans, specification, form of contract and cost estimate
 are on file in the office of the City Clerk of the City of
 Council Bluffs, Iowa for the Wastewater Disinfection; and

WHEREAS, A Notice of Public Hearing was published as required
 by law, and a public hearing was held on December 14, 2009.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the plans, specifications, form of contract and cost estimate are hereby approved for the
Wastewater Disinfection and the City Clerk is hereby authorized to advertise for bids for said
project.

ADOPTED
AND
APPROVED

December 14, 2009

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk

COUNCIL COMMUNICATION

Department: Public Works Ordinance No. First Reading December 14, 2009
Case/Project No.: FY10-18 Resolution No. 09-363
Applicant: Greg Reeder, Public Works Director

SUBJECT/TITLE

After the Public Hearing council consideration of a resolution approving the plans and specifications and authorizing the City Clerk to advertise for bids setting February 2, 2010, at 10:00 a.m. as the date and time for the bid opening for Wastewater Treatment Plant Digester Complex Upgrade. Project #FY10-18.

BACKGROUND/DISCUSSION

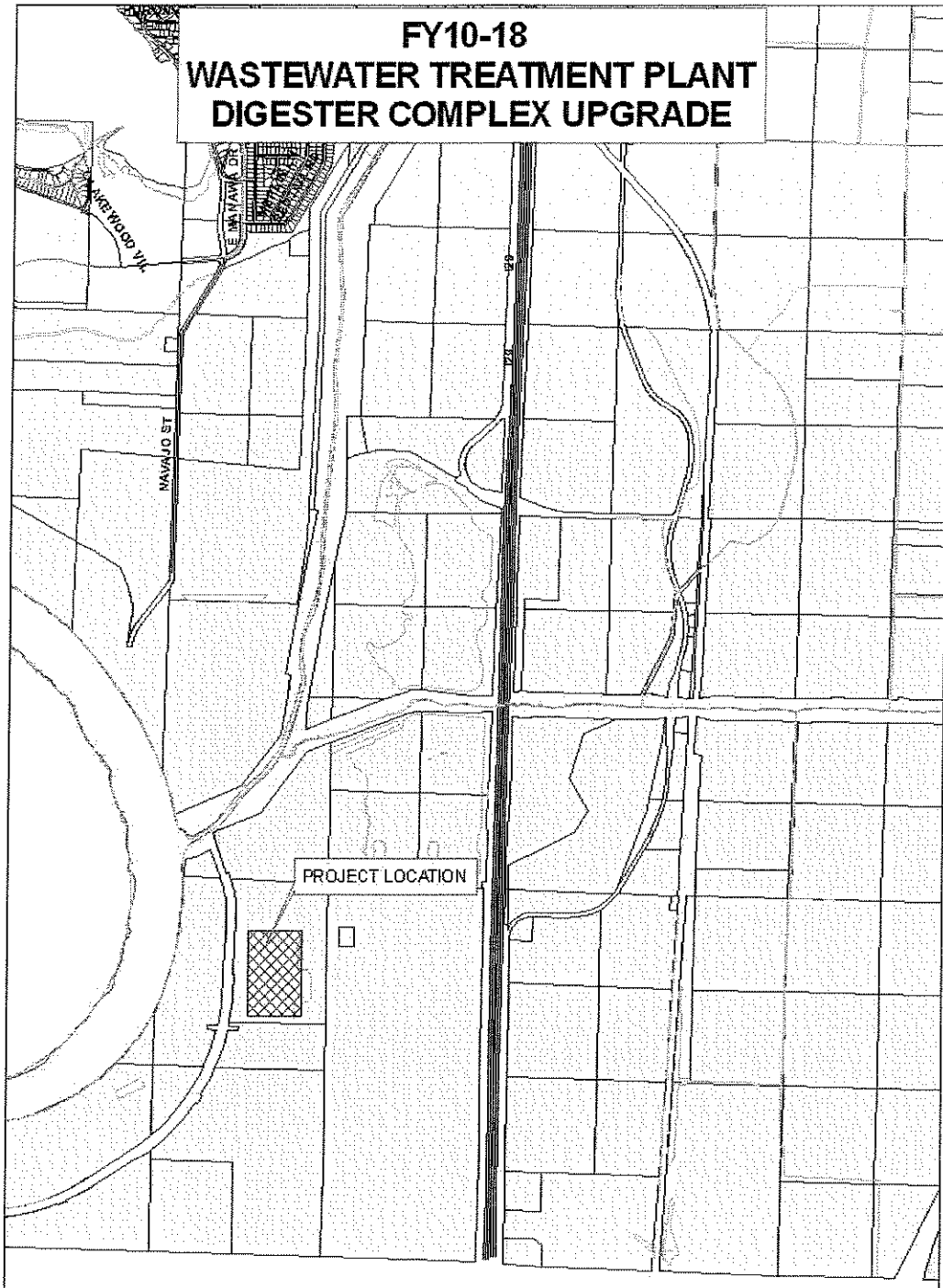
- The City of Council Bluffs Water Pollution Control Plant (WPCP) was placed into operation in 1973. Over the past 3 decades several additions and upgrades have been undertaken to maintain the treatment process.
- The sludge digestion complex has been in service for 36 years. The covers for digesters 1 and 2 require repair. The heater control center and the sludge heaters require replacement.
- The equipment in the sludge digestion complex has substained corrosion problems and cannot be serviced because repair parts are not longer available.
- The corroded and unserviceable equipment pose a safety hazard and a failure could result in the inability to provide continuous/compliant sludge digestion and methane gas management.
- The estimated cost for design and construction is \$1.5 M. The project is funded by a State Revolving Fund (SRF) loan through the Iowa Finance Authority (IFA).
- In accordance with SRF guidelines the project must be designed this year and will be under construction February, 2010.
- The tentative project schedule is:

Set Public Hearing	November 23, 2009
Hold Public Hearing	December 14, 2009
Bid Letting	February 2, 2010
Award	February 8, 2010
Construction	2010

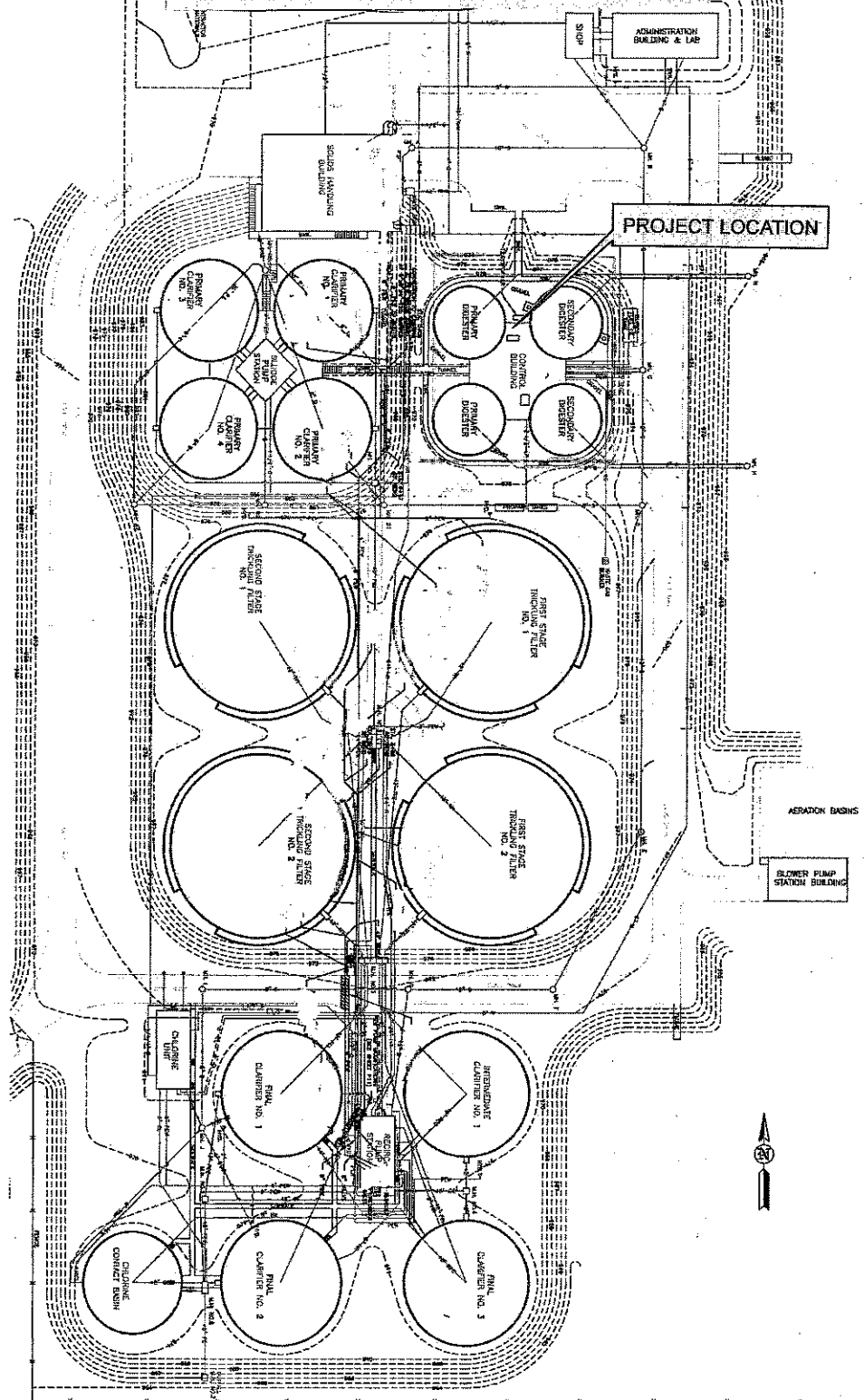
RECOMMENDATION

Approval of this resolution.

**FY10-18
WASTEWATER TREATMENT PLANT
DIGESTER COMPLEX UPGRADE**



**FY10-17
WASTEWATER TREATMENT PLANT
DIGESTER COMPLEX UPGRADE**



**RESOLUTION APPROVING THE PLANS, SPECIFICATION,
FORM OF CONTRACT AND COST ESTIMATE FOR THE
WASTEWATER TREATMENT PLANT DIGESTER COMPLEX UPGRADE
FY10-18**

Marcia L. Worden, City Clerk

COUNCIL COMMUNICATION

Department: Public Works Ordinance No. _____ First Reading December 14, 2009
Case/Project No.: FY09-10A Resolution No. 09-364
Applicant: Greg Reeder, Public Works Director

SUBJECT/TITLE

After the Public Hearing council consideration of a resolution approving the plans and specifications and authorizing the Iowa Department of Transportation to advertise for bids setting January 20, 2010, as the date for the bid opening for Fire Station Bridge Crossing Indian Creek. Project #FY09-10A.

BACKGROUND/DISCUSSION

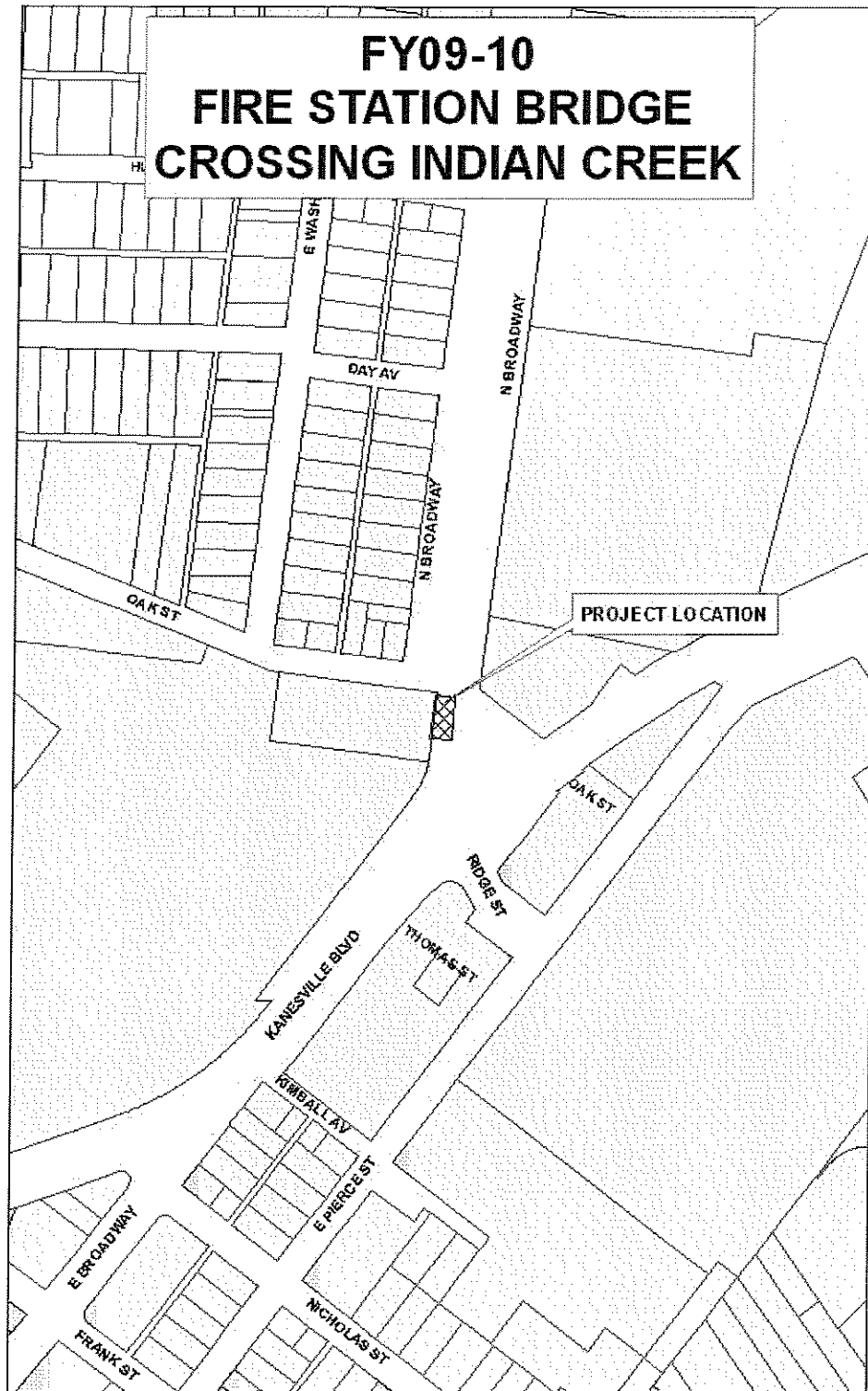
- This bridge was originally built in 1956 and it is in poor condition. Total replacement of the bridge is required.
- The Oak Street Fire Station Bridge over Indian Creek was the City's worst rated bridge. It ranked fourth in the state for bridges participating in the program.
- IDOT has offered the city 80% funding for construction replacement of the Oak Street Fire Station Bridge.
- The bridge will be replaced by a box culvert structure similar to the Parkwood Circle structure constructed in 2008-2009. As part of this project the Oak Street Bridge will be replaced by the culvert as well.
- The bridge replacement is eligible for HBRR federal aid. This funding is available on a statewide competitive basis. This structure became eligible for replacement in 2005. The City programmed and accepted Federal funding in February 2008 in Agreement No. 408-HBRRU-008.
- The project is programmed in the CIP for FY09 with construction to begin in late 2009. The project is funded \$1,000,000 HBRR and \$500,000 G.O. Bonds.
- Project schedule is:

Set Public Hearing	November 23, 2009
Hold Public Hearing	December 14, 2009
IDOT Bid Letting	January 20, 2010
Award	January 25, 2009
Construction in	2010

RECOMMENDATION

Approval of this resolution.

**FY09-10
FIRE STATION BRIDGE
CROSSING INDIAN CREEK**



RESOLUTION
NO 09-364

**RESOLUTION APPROVING THE PLANS, SPECIFICATION,
FORM OF CONTRACT AND COST ESTIMATE FOR THE
FIRE STATION BRIDGE CROSSING INDIAN CREEK
FY09-10A**

WHEREAS, the plans, specification, form of contract and cost estimate are on file in the office of the Iowa Department of Transportation for the Fire Station Bridge Crossing Indian Creek; and

WHEREAS, A Notice of Public Hearing was published as required by law, and a public hearing was held on December 14, 2009.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the plans, specifications, form of contract and cost estimate are hereby approved for the Fire Station Bridge Crossing Indian Creek and the Iowa Department of Transportation is hereby authorized to advertise for bids for said project.

ADOPTED
AND
APPROVED December 14, 2009

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk

Council Communication

Department: Parks, Recreation and Public Property Case/Project No. Applicant: Larry N. Foster	Ordinance No. _____ Resolution No. <u>09-365</u>	Date: <u>December 14, 2009</u>
Subject/Title		
After the Public Hearing council consideration of a resolution approving the plans and specifications and authorizing the City Clerk to advertise for bids setting January 15, 2010, at 12:00 noon for the bid opening for America Rides the Rails Project.		
Background/Discussion		
This project is an upgrade of exhibits at the Union Pacific Railroad Museum. The estimated cost of the project is \$475,000. Funding is provided by Transportation Enhancement Funds in the amount of \$238,000 and \$250,000 in private donations. All money has been secured.		
Recommendation		
Recommend City Clerk to advertise for bids setting January 15, 2010, at 12:00 noon for the bid opening for America Rides the Rails Project.		

Larry N. Foster

Thomas P. Hanafan, Mayor

RESOLUTION NO. 09-365

A RESOLUTION APPROVING THE PLANS, SPECIFICATIONS AND
FORM OF CONTRACT FOR THE AMERICA RIDES THE RAILS
PROJECT AND AUTHORIZING THE CITY CLERK TO ADVERTISE
FOR BIDS AND SETTING THE BID DATE FOR JANUARY 15, 2010.

WHEREAS, the plans, specifications, form of contract are on file in the office of the City
Clerk of the City of Council Bluffs, Iowa for the America Rides the Rails Project;
and

WHEREAS, a Notice of Public Hearing was published as required by law, and a Public
Hearing was held on December 14, 2009.

NOW, THEREFORE, BE IT RESOLVED
BY THE
CITY COUNCIL OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the plans, specifications and form of contract for the America Rides the Rails Project are
hereby approved and the City Clerk is hereby authorized to advertise for bids for said project and
setting bid date for January 15, 2010 at 12:00 noon.

ADOPTED
AND
APPROVED December 14, 2009

Thomas P. Hanafan Mayor

Attest:

Marcia L. Worden City Clerk

Council Communication

Department: Community Development Case No. SUB-09-006 Applicant: Swami Akshar Inc. Sudhir Shah, 3619 9 th Ave. Council Bluffs, IA 51501	Resolution No. <u>09-367</u>	City Council Meeting Public Hearing: December 14, 2009
Subject/Title		
Final Plat Approval - Swami Akshar Subdivision		
Background/Discussion		
<p>Swami Akshar Inc. is requesting final plat approval for a replat of Lots 5,6, 25 through 28, the vacated east/west alley adjoining Lots 25 through 28, vacated 10th Avenue right-of-way adjoining Block 45, Brown's Subdivision and part of Government Lot 3 located in part of the NW¼ SE¼ of Section 33-75-44. This replat of 1.938 acres will create 3 lots, located between 9th Avenue and 10th Avenue, east of I-29 right-of-way as shown on Attachment A. The property is zoned C-2 Commercial, except for the south half of proposed Lot 3 which is zoned R-3/Low Density Multi-family residential. The Red Onion Restaurant operates on proposed Lot 1 and the Days Inn Motel is located on proposed Lot 2. Additional construction is not anticipated for either of these properties; however, the owner is considering the sale of the restaurant to the current tenant. Since this land is considered one premise for building purposes, only one detached sign is permitted on the site. A partially abandoned pole sign is on proposed Lot 1. Any new signage must comply with the sign regulations in Chapter 15.33. The existing detached sign must be removed. Proposed Lot 3 is vacant and will be available for sale when the final plat is executed. It will also need rezoning to an R-3 District prior to any construction on the site. Final plats for minor subdivisions are approved after public hearing by the City Council.</p>		
<ol style="list-style-type: none"> 1. The proposed subdivision is consistent with the 1994 Comprehensive Plan and the purpose and intent of the Zoning and Subdivision Ordinances. Each lot directly abuts public right-of-way. The existing buildings meet the setback requirements on the proposed new lots. Adequate parking for both existing uses is available on the two lots. A cross access and parking easement is shown as Note #1 on the plat for the benefit of proposed Lot 1. However, parking in proposed Lot 1 and within the easement appears to be one space short of the required 29 off-street parking spaces for a restaurant. Changing the note to add more shared parking or a contractual agreement between the owners of proposed Lots 1 and 2 is needed to rectify the deficiency. A Court proceeding mandated access to proposed Lot 2 through the property to the east (not part of this plat). (See note #2) 2. Public Works states that both storm and sanitary sewer are located in 9th Avenue and South 35th Street with capacity to serve the uses. 3. Water and other utilities are available with adequate capacity to serve the existing uses at this location. A single domestic and fire service line serve both the restaurant and motel. The valve connects to the restaurant from a 6" water line on the north side of 9th Avenue. A private fire hydrant is located between the restaurant and the motel. A separate water line to serve the motel must be installed and operational prior to executing the final plat. Regarding Proposed Lot 3, service lines for new structures are required at time of construction, with costs borne by the developer. 4. MidAmerican Energy serves the restaurant on Proposed Lot 1 from a pole along 9th Avenue, then 		

underground with a private line to the building. MidAmerican also has a high voltage underground feed to serve the motel. There is overhead service to the house addressed as 920 South 36 Street which originates at the southwest corner of Proposed Lot 3. Field locations of all of these lines are needed for easement description purposes and incorporation into the final plat document. Clearances from all existing facilities must be maintained. All costs associated with extending or relocating facilities are the developer's responsibility.

5. The owners of the property at 920 South 36th Street appear to be using proposed Lot 3 as access to their property.
6. The Community Development Department informed IDOT of the replat since the land is within the area defined for review to assess potential impacts to Interstate reconstruction. IDOT has no conflict with the proposed subdivision.
7. The final plat for a minor subdivision must be recorded within 90 days of City Council approval. If it is not recorded within this time, the plat shall be null and void unless an extension of time has been requested by the subdivider and approved by the Community Development Director. (§14.08.060 – Subdivision Ordinance) In this case, along with the technical corrections, separate water lines must be installed and the electric facilities located, described and noted before the plat can be recorded.

Recommendation

The Community Development Department recommends approval of the final plat for a subdivision to be known as Swami Akshar Subdivision, as shown on Attachment 'A', subject to the following conditions:

1. Prior to executing the final plat, all technical corrections required by the Community Development and/or Public Works Department shall be incorporated into the final plat document, including but not limited to:
 - a. Correct the city clerk's name.
 - b. Notation on the plat document of an easement to Iowa Power and Light as recorded in Book 86, Page 4393 of a 10' wide easement adjoining the east right-of-way of the Interstate, extending south for approximately 280' from 9th Avenue right-of-way.
 - c. A 5' wide general franchise utility easement shall be noted along all sides of each lot.
 - d. Revise the property lines of Lots 29 and 30, adjacent to the east side of the plat, to reflect the correct legal descriptions for those two lots.
 - e. Change the note to add more shared parking or provide a contractual agreement between the owners of proposed Lots 1 and 2.
2. Prior to executing the final plat, locate and add descriptions to the plat of the underground and overhead electric service for each lot.
3. Prior to executing the final plat, the shared water service line currently serving both the restaurant and motel shall be separated. Installation of the second service line from the existing main in the north side of 9th Avenue shall be completed at owner's expense. The separation and installation of the second service shall comply with the requirements of the Council Bluffs Water Works and the Fire Safety Code.
4. Prior to executing the final plat, remove the partially abandoned, legally non-conforming sign on proposed Lot 1. All new signage must comply with Chapter 15.33.
5. All utilities shall be installed underground, with costs borne by the developer.

BBM Corp., Consulting Engineers, Michael Brenneman, P O Box 6211, Omaha, NE 68106

Attachment: Swami Akshar Subdivision - Final Plat - Attachment 'A'

Prepared by: Gayle M. Malmquist, Development Services Coordinator

SWAMI AKSHAR SI

RE-PLAT OF LOT 5, LOT 6 AND LOTS 25 THROUGH 28, 1
WEST 16.00 FOOT WIDE ALLEY ADJOINING SAID LOTS 21
45, BROWN'S SUBDIVISION, AND ALL OF VACATED 10TH
ALSO, PART OF GOVERNMENT LOT 3 LOCATED IN PART
SOUTHEAST QUARTER OF SECTION 33, TOWNSHIP 13
PRINCIPAL MERIDIAN, POTTAWATTAMIE COUNTY, IOWA

OWNER/DEVELOPER: SWAM
PRESIDENT: SUDHI
3619 9TH AVENUE
COUNCIL BLUFFS,

LEGAL DESCRIPTION:

LOT 5, LOT 6 AND LOTS 25 THROUGH 28, INCLUSIVE, AND A1 EAST-WEST 86.00 FOOT WIDE ALLEY ADJOINING SAID LOT 5 INCLUSIVE, ALL IN BLOCK 45, BROWN'S SUBDIVISION, AND A1 10TH AVENUE ADJOINING SAID BLOCK 45, AND ALSO, PART OF LOT 3 LOCATED IN PART OF THE NORTHWEST QUARTER OF 1 QUARTER OF SECTION 33, TOWNSHIP 25 NORTH, RANGE 4 FIFTH PRINCIPAL, MERIDIAN, POTTAWATTAMIE COUNTY, IOWA. ALL THE ABOVE BEING MORE PARTICULARLY FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 1 BEGINNING; THENCE SOUTH 8°04'49" EAST, ALONG THE EAST LINE, A DISTANCE OF 128.47 FEET TO THE SOUTHEAST CORNER; THENCE NORTH 8°51'11" EAST, ALONG THE SOUTH LINE, LOT 3 OF SAID BLOCK 45, A DISTANCE OF 88.15 FEET TO THE CORNER OF SAID LOT 3; THENCE SOUTH 6°00'31" EAST A DISTANCE TO THE NORTHEAST CORNER OF SAID LOT 28; THEN SOUTH 6°00'31" EAST, ALONG THE EAST LINE OF SAID LOT 28 128.51 FEET TO THE SOUTHEAST CORNER OF SAID LOT 28; THENCE 16° EAST, ALONG THE SOUTH LINES OF LOT 28 AND BLOCK 45, A DISTANCE OF 88.14 FEET TO THE SOUTHEAST CORNER; THENCE SOUTH 11°13'40" WEST, ALONG THE WEST LINE OF SOUTH 36TH STREET, A DISTANCE OF 63.34 FEET TO CORNER OF BLOCK 44 OF SAID BROWN'S SUBDIVISION; THENCE 45° WEST, ALONG THE NORTH LINE OF SAID BLOCK PROLONGATION WEST, A DISTANCE OF 363.45 FEET TO AN EASTERLY RIGHT OF WAY LINE OF INTERSTATE NO. 29; 5°09'57" EAST, ALONG THE EASTERLY RIGHT OF WAY INTERSTATE NO. 29, A DISTANCE OF 66.64 FEET; THENCE WEST, ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID 29, A DISTANCE OF 125.90 FEET; THENCE NORTH 11°13'58" WEST, ALONG THE EASTERLY RIGHT OF WAY LINE OF SAID INTERSTATE NO. 29, 145.86 FEET TO A POINT ON THE SOUTH RIGHT OF WAY LINE THENCE SOUTH 12°58'57" EAST, ALONG THE SOUTH RIGHT OF SAID 5TH AVENUE, A DISTANCE OF 88.29 FEET TO THE NORTH CORNER OF SAID LOT 6; THENCE CONTINUING SOUTH 12°58'57" EAST, ALONG THE SOUTH RIGHT OF WAY LINE OF SAID 5TH AVENUE AND ALL LINES OF SAID LOT 6 AND LOT 5, A DISTANCE OF 81.98 FEET BEGINNING PARCEL CONTAINS 1.538 ACRES, MORE OR LESS TO ALL EASEMENTS OF RECORD, IF ANY.

NOTE: THE NORTH LINE OF SAID BLOCK 46 IS ASSUMED
 BEING EAST FOR THIS DESCRIPTION.

NOTES:

IN ALL THAT PART OF LOT 2, SWAMI AKSHAR
SUBDIVISION ADJOINING THE WEST LINE OF
1, SWAMI AKSHAR SUBDIVISION IS SUBJECT
AN EASEMENT FOR ACCESS AND PARKING FOR
BENEFIT OF SAID LOT 1.

2) THE WEST 30.00 FEET OF LOT 4, BLOCK 45 BROWN'S SUBDIVISION IS SUBJECT TO AN EASEMENT BY PRESCRIPTION FOR THE BENEFIT OF LOTS 5, 6, 25, 26, 27 AND 28, BLOCK BROWN'S SUBDIVISION. SEE LAW NO. 69016 FILED IN THE IDWA DISTRICT COURT FOR POTTAWATTAMIE COUNTY.

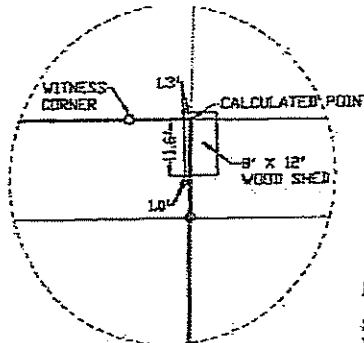
I, THE TREASURER OF POTTAWATTAMIE COUNTY, IOWA, HEREBY CERTIFY THAT THE
INCLUDED IN SPANISH ANCESTRY SUBDIVISION IS FREE FROM CERTIFIED TAXES AND
SPECIAL ASSESSMENTS.

TREASURER OF POTTAWATTAMIE COUNTY, IOWA. JUDY ANN MILLER DATE

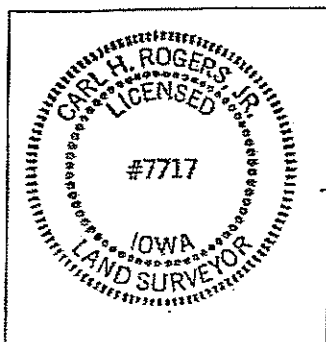
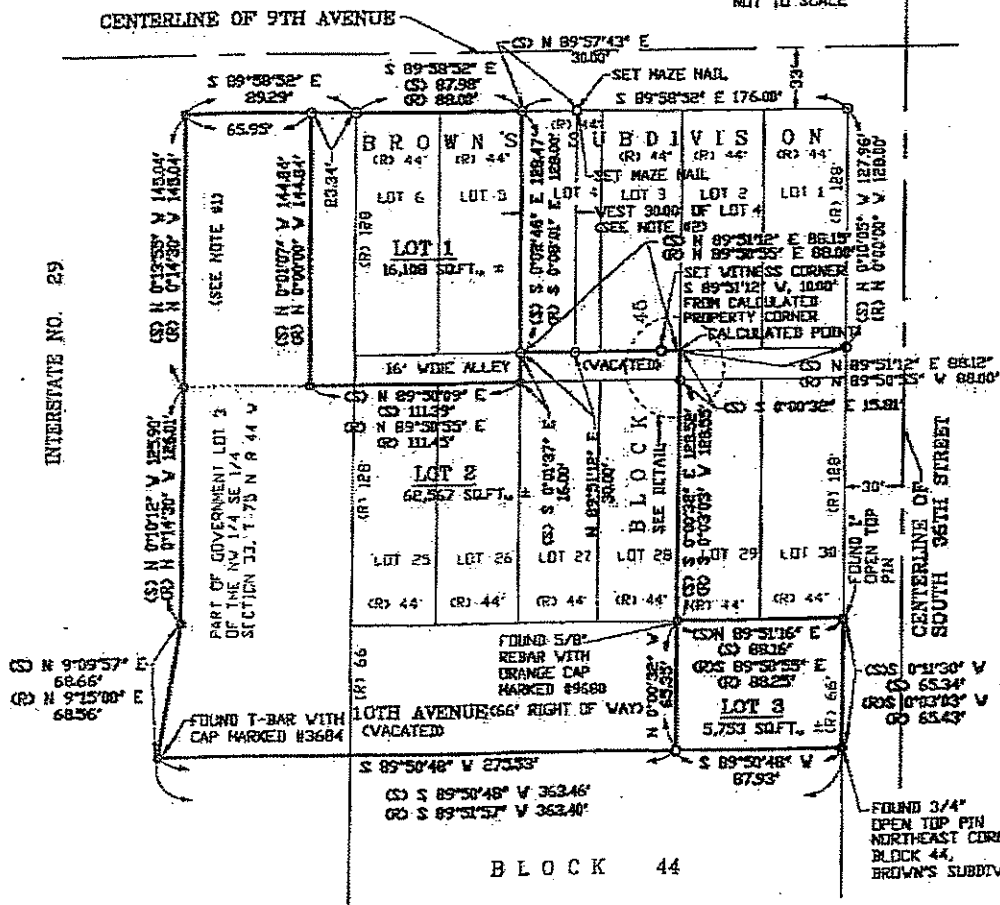
ROGERS SURY
1688 ROLLING HILLS LOOP. CO

SCALE 1" = 30'	PHONE
DATE: 11-02-2009	(712) 366-9

PREPARED BY: CARL H. ROGERS, JR. PHONE: (712) 366-9009
1532 ROLLING HILLS LOOP, COUNCIL BLUFFS, IOWA 51503



DETAIL
8" X 12" WOOD SHEET
ENCROACHMENT
NOT TO SCALE



I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

Carl H. Rogers, Jr. NOVEMBER 11, 2009
CARL H. ROGERS, JR. DATE

LICENSE NUMBER: 7717

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2013.

NUMBER OF SHEETS COVERED BY THIS SEAL: SHEET 1 OF 1

Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, Iowa 51503 (712) 328-4620
Return to: City Clerk, 209 Pearl Street, Council Bluffs, Iowa 51503 (712) 328-4616

RESOLUTION NO. 09-367

A RESOLUTION granting final plat approval for Swami Akshar Subdivision.

WHEREAS, Swami Akshar Inc. is requesting final plat approval for a replat of Lots 5, 6, 25 through 28, the vacated east/west alley adjoining Lots 25 through 28, vacated 10th Avenue right-of-way adjoining Block 45, Brown's Subdivision and part of Government Lot 3 located in part of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of Section 33-75-44. This replat of 1.938 acres will create three lots, located between 9th Avenue and 10th Avenue, east of I-29 right-of-way, as shown on Attachment A; and

WHEREAS, the proposed subdivision is consistent with the 1994 Comprehensive Plan and the purpose and intent of the Subdivision and Zoning Ordinances; and

WHEREAS, the property is zoned C-2/Commerical, except for the south half of proposed Lot 3, which is zoned R-3/Low Density Multi-family Residential; and

WHEREAS, both storm and sanitary sewer are located in 9th Avenue and South 35th Street with capacity to serve the uses, and water and other utilities are available with adequate capacity to serve the existing uses at this location; and

WHEREAS, the Community Development Department informed IDOT of the replat, since the land is within the area defined for review to assess potential impacts to interstate reconstruction. IDOT has no conflict with the proposed subdivision; and

WHEREAS, the Community Development Department recommends approval of the final plat for a subdivision to be known as Swami Akshar Subdivision, as shown on Attachment "A", subject to following conditions:

1. Prior to executing the final plat, all technical corrections required by the Community Development Department and/or Public Works Department shall be incorporated into the final plat document, including but not limited to:
 - a. Correct the City Clerk's name.
 - b. Notation on the plat document of an easement to Iowa Power and Light as recorded in Book 86, Page 4393 of a 10' wide easement adjoining the east right-of-way of the Interstate, extending south for approximately 280' from 9th Avenue right-of-way.
 - c. A 5' wide general franchise utility easement shall be noted along all sides of each lot.

- d. Revise the property lines of Lots 29 and 30, adjacent to the east side of the plat, to reflect the correct legal descriptions for those two lots.
 - e. Change the note to add more shared parking or provide a contractual agreement between the owners of proposed Lots 1 and 2.
2. Prior to executing the final plat, locate and add descriptions to the plat of the underground and overhead electric service for each lot.
 3. Prior to executing the final plat, the shared water service line currently serving both the restaurant and motel shall be separated. Installation of the second service line from the existing main in the north side of 9th Avenue shall be completed at owner's expense. The separation and installation of the second service shall comply with the requirements of the Council Bluffs Water Works and the Fire Safety Code.
 4. Prior to executing the final plat, remove the partially abandoned, legally non-conforming sign on proposed Lot 1. All new signage must comply with Chapter 15.33.
 5. All utilities shall be installed underground, with costs borne by the developer.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

That the final plat for Swami Akshar Subdivision, as shown on Attachment "A", is hereby approved, subject to the conditions set forth above; and

BE IT FURTHER RESOLVED

That the Mayor and City Clerk are hereby authorized and directed to endorse the final plat.

ADOPTED
AND
APPROVED

December 14, 2009

THOMAS P. HANAFAN

Mayor

Attest:

MARCIA L. WORDEN

City Clerk

Council Communication

Department: Legal Case/Project No. Applicant: Richard Wade, City Attorney	Ordinance No. Resolution No. <u>09-366</u>	Council Action: <u>Dec. 14, 09</u>
SUBJECT/TITLE		
A Resolution to waive City Council rules and allow newly elected and reelected officials to take their oath of office on December 21, 2009.		
BACKGROUND		
Monday, December 21, of this year has been designated for the City Council oath process to be effective with schedules of all members.		
Recommendation		
It is my recommendation that the City Council approves this oath resolution.		

Richard Wade

Department Head Signature

Mayor Signature

PREPARED BY: City Legal Department, 209 Pearl Street, Council Bluffs, IA 51503
RETURN TO: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

RESOLUTION NO. 09-366

THIS RESOLUTION IS TO WAIVE CITY COUNCIL RULES AND ALLOW NEWLY ELECTED AND REELECTED OFFICIALS TO TAKE THEIR OATH OF OFFICE ON DECEMBER 21, 2009, AS OPPOSED TO WAITING UNTIL 2010. THIS ACTION WILL NOT EFFECT THE TERM OF ANY CURRENTLY SITTING OR NEWLY ELECTED COUNCIL MEMBER.

WHEREAS, current Council rules provide that an organizational meeting shall be held on the first day of January that is not a Saturday, Sunday, or legal holiday following a year in which there is a city election; and

WHEREAS, historically it is at this meeting that newly elected and reelected city officials take their oath of office; and

WHEREAS, due to conflicts with schedules of elected city officials, the date as established by the rule will not be practical.

NOW, THEREFORE, BE IT RESOLVED

BY THE CITY COUNCIL

OF THE

CITY OF COUNCIL BLUFFS, IOWA

Those newly elected and reelected officials shall take their oath of office on December 21, 2009.

ADOPTED
AND
APPROVED

December 14, 2009

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk

Council Communication

Department: Legal	Resolution No. <u>09-368</u>	Council Action: <u>Dec. 14, 2009</u>
Case/Project No.		
Subject/Title		
Resolution authorizing the Mayor to execute an Order Accepting the Acknowledgement/Settlement Agreement from The Filling Station, Inc., 1531 2 nd Avenue, Council Bluffs, Iowa, for a second violation of Iowa Code Section 453A.2(1).		

Background/Discussion
On September 24, 2009, compliance checks by the Council Bluffs Police Department resulted in a citation being issued to an employee of The Filling Station, 1531 2 nd Avenue, for providing tobacco to a minor. On or about June 22, 2009, this permittee was issued a sanction for a first violation of Iowa Code Section 453A.2. We are pursuing civil penalties against the permit holder. The civil penalty for a second violation within two years is either a \$1,500 fine or a 30-day suspension of the cigarette permit. The Filling Station, Inc. has made payment of the \$1,500 penalty and has submitted the Acknowledgement/Settlement Agreement. A resolution has been prepared authorizing the Mayor to execute the Order to Accept the Acknowledgement/Settlement Agreement from The Filling Station.
Recommendation
Authorize the Mayor to execute Order Accepting the Acknowledgement/Settlement Agreement from The Filling Station, Inc., for a second violation of the State's tobacco laws.

Don Bauermeister, Asst. City Attorney

Department Head Signature

Mayor Signature

RESOLUTION NO. 09-368

A RESOLUTION authorizing the Mayor to execute an Order Accepting the Acknowledgement/Settlement Agreement from The Filling Station, Inc., 1531 2nd Avenue, Council Bluffs, Iowa, for a second violation of Iowa Code Section 453A.2(1).

WHEREAS, the State of Iowa has enacted a comprehensive program aimed at reducing underage tobacco use; and

WHEREAS, compliance checks in Council Bluffs resulted in a citation being issued to an employee of The Filling Station, 1531 2nd Avenue, on or about September 24, 2009. On or about June 22, 2009, the permittee was issued a sanction for a first violation of Iowa Code Section 453A.2; and

WHEREAS, the permittee has elected to pay the \$1,500 fine, and it is in the best interest of the City to execute an Order accepting the Acknowledgement/Settlement Agreement from the above business for this violation.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

That the Mayor is hereby authorized to execute the Order Accepting the Acknowledgement/Settlement Agreement from The Filling Station, Inc., for a second violation of Iowa Code Section 453A.2.

ADOPTED
AND
APPROVED

December 14, 2009

THOMAS P. HANAFAN

Mayor

Attest:

MARCIA L. WORDEN

City Clerk

BEFORE THE CITY COUNCIL
FOR THE CITY OF COUNCIL BLUFFS, IOWA

THE FILLING STATION, INC.
1531 2ND AVENUE
COUNCIL BLUFFS, IA 51501

ORDER ACCEPTING
ACKNOWLEDGEMENT/SETTLEMENT
AGREEMENT - 2ND VIOLATION

On this 14th day of December, 2009, in lieu of a public hearing on the matter, the City Council approves the attached Acknowledgement/Settlement Agreement between the above-captioned permittee and the City of Council Bluffs, Iowa.

Pursuant to the Agreement, IT IS THEREFORE ORDERED that a civil penalty of a one thousand five hundred dollar (\$1,500.00) fine be accepted. This sanction will count as a **second** violation of Iowa Code Section 453A.2(1), pursuant to Iowa Code Section 453A.22(2)(b).

THOMAS P. HANAFAN Mayor

Attest:

MARCIA L. WORDEN City Clerk

COUNCIL COMMUNICATION

Department: Public Works

Ordinance No. _____

First Reading December 14, 2009

Case/Project No.: FY09-08

Resolution No. 09-369

Applicant: Greg Reeder, Public Works Director

SUBJECT/TITLE

Council consideration of a resolution accepting the work of R. D. Blue Construction, Inc. as complete and authorizing release of the retainage after 30 days if no claims are filed in connection with the Avenue G Viaduct/Corridor -- Project V. Project #FY09-08.

BACKGROUND/DISCUSSION

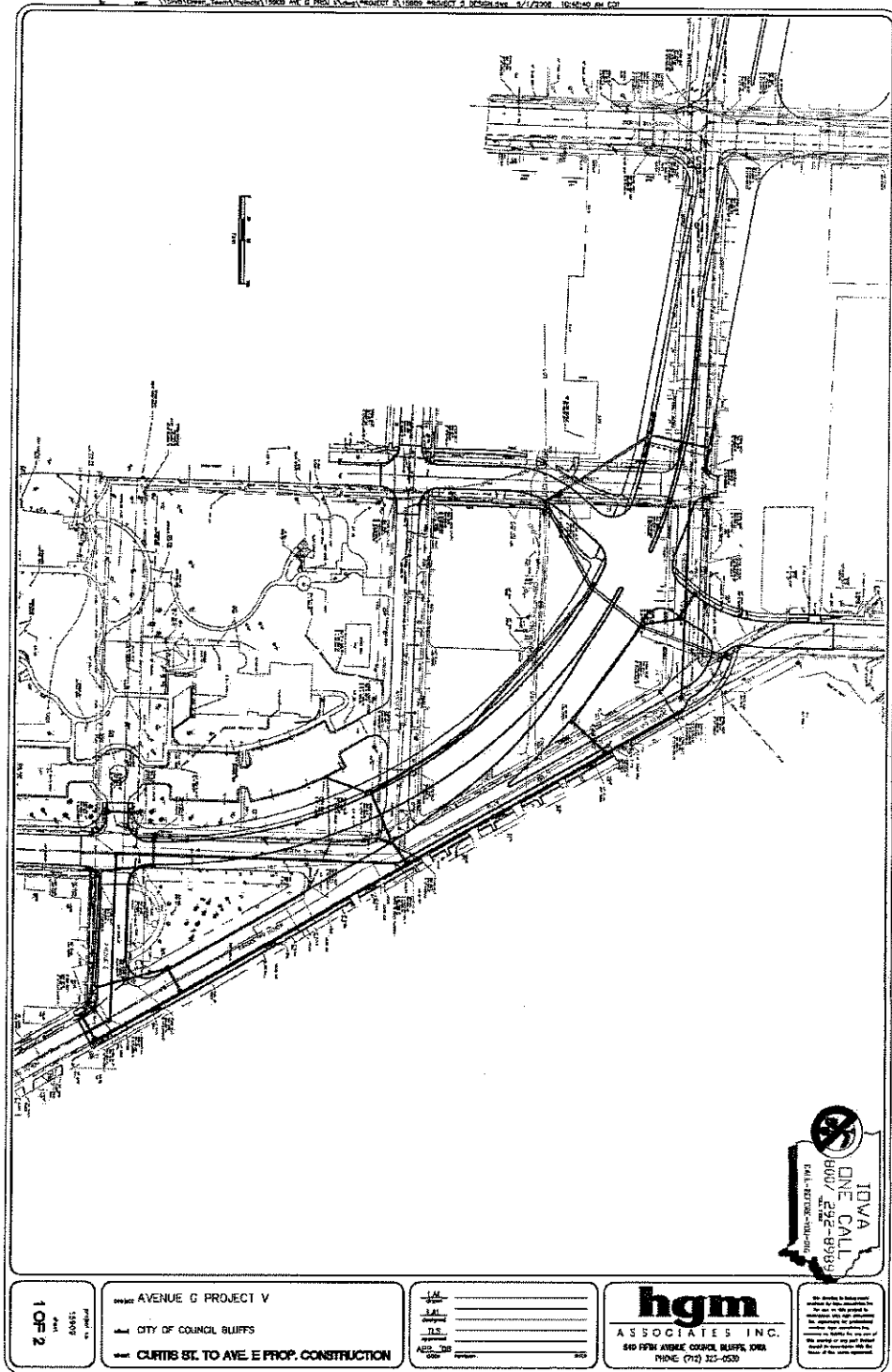
- This project constructed the new roadway alignment from Avenue G at Curtis Street to Avenue E.
- Improvements included concrete street, concrete curb & gutter, storm water inlets, storm sewers, sanitary sewer and street lights. Iowa West Foundation provided landscape aesthetics after the city project was completed.
- The project is in coordination with the IDOT plan to reconstruct the Broadway Viaduct in 2010. 6th Street & 7th Street to Avenue G will be used as alternate access.
- This was project FY09-08 in the CIP and was funded by a combination of Local Sales Tax and General Obligation Bonds.

	Division I <u>General</u>	Division II <u>Pavement</u>	Division III <u>Storm Sewer</u>	Division IV <u>Sanitary Sewer</u>	Division V <u>Water Main</u>	Division VI <u>Traffic</u>	Division VIII <u>Misc.</u>	Total
• Original contract amount	\$150,425.95	\$566,912.10	\$132,364.85	\$68,605.65	\$120,060.30	\$10,454.91	\$36,065.91	\$1,084,889.67
Change Orders (2.94%)	(\$ 6,559.71)	(\$ 3,404.17)	(\$ 5,054.16)	(\$10,008.00)	(\$ 7,506.52)	(\$ 1,578.09)	\$ 2,208.80	(\$ 31,901.85)
Final contract amount	\$143,866.24	\$563,507.93	\$127,310.69	\$58,597.65	\$112,553.78	\$ 8,876.82	\$38,274.71	\$1,052,987.82
Less previous payments	(\$136,672.93)	(\$535,332.53)	(\$120,945.16)	(\$55,667.77)	(\$106,926.09)	(\$ 8,432.98)	(\$36,360.97)	(\$1,000,338.43)
Retainage due contractor	\$ 7,193.31	\$ 28,175.40	\$ 6,365.53	\$ 2,929.88	\$ 5,627.69	\$ 443.84	\$ 1,913.74	\$ 52,649.39

Contract received 1 non-compliance notice.
Contractor did finish on time.

RECOMMENDATION

Approval of this resolution.



1 OF 2

PROJECT: AVENUE G PROJECT V
 CITY OF COUNCIL BLUFFS
 CURTIS ST. TO AVE. E PROP. CONSTRUCTION

DATE	_____
BY	_____
CHKD	_____
APPD	_____
DATE	_____

hgm
 ASSOCIATES, INC.
 810 FIFTH AVENUE COUNCIL BLUFFS, IOWA
 PHONE (712) 323-0530

We warrant to the best of our knowledge that the information contained herein was obtained from reliable sources. We do not warrant the accuracy or completeness of the information. The user of this information is responsible for its use. The user of this information is responsible for its use. The user of this information is responsible for its use.

RESOLUTION
NO 09-369

**RESOLUTION ACCEPTING THE WORK OF
R. D. BLUE CONSTRUCTION, INC. IN CONNECTION WITH
AVENUE G VIADUCT/CORRIDOR-PROJECT 5
AND AUTHORIZING THE FINANCE DIRECTOR TO ISSUE
A CITY CHECK IN THE AMOUNT OF \$52,649.39
FY09-08**

- WHEREAS, the City of Council Bluffs, Iowa, entered into an agreement with R. D. Blue Construction, Inc., Council Bluffs, IA for the Avenue G Viaduct/Corridor-Project 5.; and
- WHEREAS, said contractor has fully completed the construction of said improvements in accordance with the terms and conditions of said contract and plans and specifications filed with the City clerk; and
- WHEREAS, a request for final payment in the amount of \$52,649.39 to R. D. Blue Construction, Inc. has submitted to the city council for approval and payment; and
- WHEREAS, final payment is due 30 days after acceptance of the work; and
- WHEREAS, the city council of the City of Council Bluffs has been advised and does believe that said \$52,649.39 constitutes a valid obligation of the City and should in its best interest be paid.

NOW, THEREFORE, BE IT RESOLVED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA

Said improvements are hereby accepted as having been fully completed in accordance with plans and specifications.

AND BE IT FURTHER RESOLVED

That the finance director is hereby authorized and directed to issue a city check in the amount of \$52,649.39 payable to R. D. Blue Construction, Inc. from budget codes Division I, Z02220-676000; Division II, Z02220-676200; Division III, Z02220-676500; Division IV, Z02220-676700; Division V, Z02220-678000; Division VI, Z02220-676800; Division III, Z02220-676900. Project #00097.

ADOPTED
AND
APPROVED

December 14, 2009

Thomas P. Hanafan, Mayor

ATTEST:

Marcia L. Worden, City Clerk